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3:99-CV-00351 HEWLETT PACKARD V. MUSTEK SYSTEMS INC

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MLIM.

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HEWLETT-PACKARD COMPANY

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 HEWLETT-PACKARD COMPANY, a
Delaware corporation,

11 Plaintiff,

12 v.

13 MUSTEK SYSTEMS, INC., a
14 Taiwanese company, and
15 MUSTEK, INC., a California
corporation,

16 Defendants.

17 AND RELATED CROSS-ACTIONS.
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CV No. 99-cv-0351-RHW (RBB)

**PLAINTIFF HEWLETT-PACKARD
COMPANY'S MOTION IN LIMINE
REGARDING GENERAL MATTERS**

**[HP's Motion in Limine No. 10 of
10]**

Trial: June 18, 2001
Time: 1:00 p.m.
Ctrm: 14
Judge: Hon. Robert H. Whaley

ORIGINAL

1 **I. INTRODUCTION.**

2 Plaintiff Hewlett-Packard Company ("HP") requests that all
3 parties, the counsel for the parties, and, through counsel, any
4 and all witnesses be instructed to refrain from asking about or
5 mentioning, directly or indirectly, any of the matters contained
6 in this Motion in Limine, without first approaching the bench and
7 obtaining a ruling of the Court outside the presence and hearing
8 of the prospective jurors or the jurors ultimately selected in
9 this case.

10 Plaintiff HP believes the matters set out in this Motion in
11 Limine are inadmissible for any purpose, have no bearing on any
12 of the issues in this case, and would be excluded from evidence
13 on timely and proper objection. HP therefore makes this Motion
14 in Limine because the mere mention of these matters before the
15 prospective jurors or the ultimate jurors selected in this case
16 would result in prejudice and harm to Plaintiff, and the
17 sustaining of an objection following the mention of such matters
18 would not cure their harmful and prejudicial effect. In fact, an
19 objection might only serve to draw the jury's attention to the
20 inadmissible evidence and increase the harmful and prejudicial
21 nature of the evidence.

22 **II. MATTERS TO PRECLUDE.**

23 Plaintiff requests that no mention be made of the following
24 subjects in the presence of the prospective jurors or the jurors
25 ultimately selected in this case:

26 /////

27 /////

28 /////

1 1. The filing of this Motion or any Motion in Limine by
2 Plaintiff.

3
4 GRANTED _____ DENIED _____

5
6 2. Any mention of or reference to any settlement
7 discussions between any of the parties to this lawsuit. FED. R.
8 EVID. 408.

9
10 GRANTED _____ DENIED _____

11
12 3. Any request by any party or any counsel for any
13 agreement or stipulation or understanding from Plaintiff or their
14 counsel.

15
16 GRANTED _____ DENIED _____

17
18 4. Any mention that Plaintiff has failed to call any
19 particular witness that would be available equally to both
20 parties through the subpoena process.

21
22 GRANTED _____ DENIED _____

23
24 5. Any evidence that Defendants relied on an opinion of
25 counsel concerning issues of willful infringement of the '635
26 patent or the '878 patent. No opinion of counsel was produced
27 in this case nor, to the best of HP's knowledge, have the
28 Defendants alleged that they obtained an opinion of counsel.

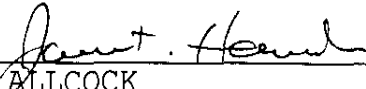
1 Defendants' 30(b)(6) witness stated that no such opinions were
2 sought.

3
4 GRANTED _____ DENIED _____

5 **III. CONCLUSION.**

6 WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully
7 requests that the Court grant this Motion in Limine and instruct
8 the parties and counsel for the parties accordingly.

9
10 Dated: May 25, 2001

11
12 By 
13 JOHN ALLCOCK
14 JAMES T. HANNINK
15 JOHN E. GIUST
16 GRAY CARY WARE & FREIDENRICH LLP
17 Attorneys for Plaintiff
18 HEWLETT-PACKARD COMPANY
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PLAINTIFF
HEWLETT-PACKARD COMPANY'S MOTION IN LIMINE REGARDING GENERAL
MATTERS [HP'S MOTION IN LIMINE NO. 10 of 10] was this date served
upon the following counsel of record, by Federal Express
overnight delivery, following ordinary business, at their last
known address as follows:

Paul N. Conover, Esq.
Knobbe, Martens, Olson & Bear
620 Newport Center Drive, 16th Floor
Newport Beach, CA 92660-8016

DATED: May 25, 2001

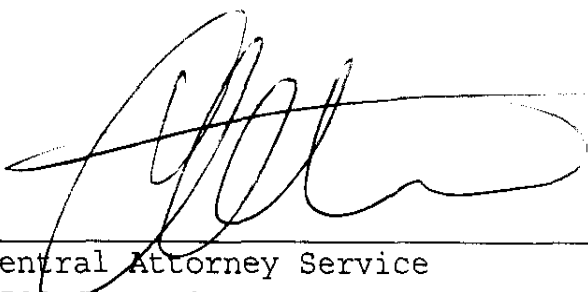

Traci Garner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **PLAINTIFF**
HEWLETT-PACKARD COMPANY'S MOTION IN LIMINE REGARDING GENERAL
MATTERS [HP'S MOTION IN LIMINE NO. 10 of 10] was this date served
upon the following counsel of record, by hand-delivering a copy
of same at their last known address as follows:

Frederick S. Berretta, Esq.
Knobbe, Martens, Olson & Bear
550 W. C Street, Suite 1200
San Diego, CA 92101
(619)235-8550

DATED: May 25, 2001



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Suite 245
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